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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/715,099	11/17/2003	Emil Vulcu	136-03	3268
27569	7590	03/02/2006	EXAMINER	
PAUL AND PAUL 2000 MARKET STREET SUITE 2900 PHILADELPHIA, PA 19103			GEHMAN, BRYON P	
			ART UNIT	PAPER NUMBER
			3728	

DATE MAILED: 03/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/715,099	VULCU ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Bryon P. Gehman	3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 February 2006.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 15 and 17-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 15 and 17-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Thaler (4,700,729). Thaler discloses a storage container (10) for receiving and storing a contact lens comprising an upper chamber (inside 12) having an opening (at 14) through which the contact lens can be placed into the chamber, the upper chamber having a bottom portion having at least one passageway (32) permitting liquid to flow out of the upper chamber, a contact lens supporting device (20-27) fixed (via element 26) on the bottom portion of the upper chamber, the device being a dome-shaped structure (21 or 23) maintaining the contact lens on the bottom portion of the upper chamber while the contact lens is stored in the container and inherently permitting inversion of a contact lens when the contact lens is received in the storage container, and a lower chamber (18; inside 18) for containing liquid and having a deformable portion which allows liquid to flow through the passageways in the bottom portion of the upper chamber to the lower chamber such that the contact lens supporting device is free of liquid.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sturgeon (3,695,280) in view of Thaler (4,700,729). Sturgeon discloses a storage container for receiving and storing a contact lens comprising an upper chamber (inside 6) having an opening (at 18) through which the contact lens can be placed into the chamber, the upper chamber having a bottom portion having at least one passageway (34) permitting liquid to flow out of the upper chamber, a contact lens supporting device (32) fixed on the bottom portion of the upper chamber, the device being a dome-shaped structure maintaining the contact lens on the bottom portion of the upper chamber while the contact lens is stored in the container and inherently permitting inversion of a contact lens when the contact lens is received in the storage container, and a lower chamber (36) for containing liquid which allows liquid to flow through the passageways in the bottom portion of the upper chamber to the lower chamber. Thaler has been described above and discloses a storage container (10) for receiving and storing a contact lens comprising an upper chamber, the upper chamber having a bottom portion having at least one passageway (32) permitting liquid to flow out of the upper chamber, and a lower chamber (inside 18) for containing liquid and having a deformable portion which allows liquid to flow through the passageways in the bottom portion of the upper chamber to the lower chamber such that the contact lens supporting device is free of liquid. To modify the lower chamber of Sturgeon by replacing the fixed lower chamber

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with a deformable lower chamber as disclosed by Thaler would have been obvious in order to provide a pump to provide a cleaning action to the contact lens contained in the storage container, as disclosed by Thaler.

5. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Willis (3,113,579) in view of Sturgeon. Willis discloses a storage container for receiving and storing a contact lens comprising an upper chamber (above 17) having an opening (at 12) through which the contact lens can be placed into the chamber, the upper chamber having a bottom portion having at least one passageway (26) permitting liquid to flow out of the upper chamber, a contact lens supporting device (11) fixed on the bottom portion of the upper chamber by engagement with inner edge portion (16), the device being a structure (28) maintaining the contact lens on the bottom portion of the upper chamber while the contact lens is stored in the container and inherently permitting inversion of a contact lens when the contact lens is received in the storage container, and a lower chamber (18) for containing liquid and having a deformable portion which allows liquid to flow through the passageways in the bottom portion of the upper chamber to the lower chamber such that the contact lens supporting device is free of liquid. Sturgeon discloses dome-shaped structure (32) to retain a contact lens in position thereon. To modify the contact lens maintaining structure of Willis to comprise a dome-shaped structure as taught by Sturgeon would have been obvious in order to better receive the dome-shaped contact lens.

6. Claims 15 and 17-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thaler and Kobler (3,129,971). Claims 15 and 17-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sturgeon in view of Thaler, and Kobler. Claims 15 and 17-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Willis in view of Sturgeon, and Kobler. Thaler individually and the combinations of Sturgeon with Thaler, and Willis with Sturgeon have been discussed in detail above. Kobler discloses an inserting and handling device (11) comprising a main body having an opening and an axial channel extending to a first end of the main body, and a deformable portion (12) which discharges air from the axial channel and upon application of a lesser force permits a vacuum to be formed in the axial channel, a suction cup (14) located at the first end of the main body which leads to the axial channel of the main body, and a vacuum bleed hole (18) on the axial channel, the vacuum bleed hole located such that a user holding the device can seal the vacuum bleed hole on the main body when the main body is deformed and a vacuum is formed permitting the suction cup to grasp an object and release the object when the vacuum bleed hole is unsealed. To provide the individual container and inserting and handling device together in combination would have been obvious, as both are disclosed to be employed with contact lens.

As to claims 17-19, Thaler discloses the deformable portion as an accordion-shaped pleated bellows.

As to claim 20, Thaler and Sturgeon each disclose a dome-shaped structure.

7. Claims 15 and 17-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thaler and Cointment (4,238,134) in view of Kobler. Claims 15 and 17-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sturgeon in view of Thaler, and Cointment in view of Kobler. Claims 15 and 17-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Willis in view of Sturgeon, and Cointment in view of Kobler. Thaler, Sturgeon in view of Thaler and Willis in view of Sturgeon, as discussed previously, each disclose a storage container as explained in detail above. Cointment and Kobler each pertain to an inserting and handling device. Cointment discloses an inserting and handling device comprising a main body having a first end (at 10 and 11) having a first opening, a second end (at 3) having a second opening and an axial channel (18) extending from the first opening to the second opening, and a bulb (3) over the second opening on the second end of the main body which discharges air from the axial channel and upon application of a lesser force permits a vacuum to be formed in the axial channel, a suction cup (2) located at the first end of the hollow body which leads to the axial channel of the main body. Kobler discloses a similar device including a vacuum bleed hole (18) on the axial channel of the main body in communication with the axial channel, the vacuum bleed hole located such that a user holding the device can seal the vacuum bleed hole on the axial channel when the hollow body is deformed and a vacuum is formed permitting the suction cup to grasp an object and release the object when the vacuum bleed hole is unsealed. To provide the individual container and device together in combination would have been obvious, as both are disclosed to be employed with contact lens.

As to claims 17-19, Thaler discloses the deformable portion as an accordion-shaped pleated bellows.

As to claim 20, Thaler and Sturgeon each disclose a dome-shaped structure.

8. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 22 above, and further in view of Raimondi (5,941,583). Raimondi disclose a contact lens handling device including a removable cover (56) To employ a cover to modify the handling device of the combination would have been obvious in view of Raimondi in order to protect the device during non-use.

9. Applicant's arguments filed February 7, 2006 have been fully considered but they are not persuasive with respect to the new grounds of rejection. It is maintained that the dome-shaped structure of Thaler and Sturgeon each will inherently permit inversion of a contact lens received in the storage container on the dome-shaped structure. The examiner is a wearer of contact lens and lenses are easily inverted during cleaning handling such that the dome-shaped structure of Thaler or Sturgeon can and would receive contact lenses in normal or inverted condition interchangeably, intentionally or unintentionally. The contact lens does not comprise part of the structure of the claimed storage container or of the storage container in the combination.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryon P. Gehman whose telephone number is (571)



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272-4555. The examiner can normally be reached on Monday through Wednesday from 5:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu, can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Bryon P. Gehman  
Primary Examiner  
Art Unit 3728

BPG